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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,897	04/16/2001	Werner Lautenschlager	74-05 US DIV	5405

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LACASSE & ASSOCIATES, LLC  
1725 DUKE STREET  
SUITE 650  
ALEXANDRIA, VA 22314

EXAMINER

ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/834,897

Applicant(s)

LAUTENSCHLAGER, WERNER

Examiner

Lyle A Alexander

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-22 and 26-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-22 and 26-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/16/01.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-21,26,28-34 and 36-41 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lautenschlager(USP 5,447,077), or Kundson(USP 4,689,129) .

Lautenschlager in column 8 lines 7+ teach an upper pot(27) made of glass, quartz or ceramics and a filter plate(34) made of glass.

Kundson(129) teaches a Pyrex Buchner funnel(20) with a glass frit filter(21) in the bottom.

The limitations directed to the “pressed fibers ... useful for digestion processes” and the “pressed fibers ... useful for retaining liquid solvents”, etc. are directed to methods of intended use and are of no patentable moment with respect to the pending apparatus claims.

Claims 19-21 and 26-41 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kundson(UPS 4,895,628).

Kundson(628) teaches a Pyrex Buchner funnel(20) with a glass frit filter(21) in the bottom. In column 8 lines 14+ teach application of pressures up to 700 torr that is virtually indistinguishable from the claimed 1 atm. (e.g. 1 atm is equal to 760 torr). One having ordinary skill in the art would expect a filter capable of with standing a pressure of 700 torr to also be able to with sand a pressure of 760 torr (e.g. the claimed 1 atm.).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kundson(628).

Kundson(628) teaches a Pyrex Buchner funnel(20) with a glass frit filter(21) in the bottom. In column 8 lines 14+ teach application of pressure 600-700 torr and further modification of the pressure based upon the desired results.

Kundson is silent to the claimed glass filter as being quartz fiber, borosilicate fiber or Pyrex fiber and a pressure of at least one atmosphere.

The court decided In re Boesch (205 USPQ 215) that optimization of a result effective variable is ordinarily within the skill of the art. A result effective variable is one that has predictable and well-known results. The choice of a type of glass fiber, such as

quartz fiber, borosilicate fiber or Pyrex fiber and a pressure selected for a reaction are result effective variables.

Glass fibers such as quartz fiber, borosilicate fiber, and Pyrex fiber are all well known in the art for their properties of imperviousness and inertness. These fibers can also withstand high temperatures and pressures. It would have been within the skill of the art to modify Kundson(628) and use any one of well known glass fibers, such as quartz fiber, borosilicate fiber or Pyrex fiber, as optimization of a result effective variable and to gain the above advantages.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager or Kundson(USP 4,689,129).

See Lautenschlager and Kundson(USP 4,689,129) supra.

These references teach glass filter but are silent to specifically claimed quartz fiber, borosilicate fiber or Pyrex fiber.

The court decided In re Boesch (205 USPQ 215) that optimization of a result effective variable is ordinarily within the skill of the art. A result effective variable is one that has predictable and well-known results. The choice of a type of glass fiber, such as quartz fiber, borosilicate fiber or Pyrex fiber is a result effective variable.

Glass fibers such as quartz fiber, borosilicate fiber, and Pyrex fiber are all well known in the art for their properties of imperviousness and inertness. These fibers can also withstand high temperatures and pressures. It would have been within the skill of the art to modify Lautenschlager or Kundson(USP 4,689,129) and use any one of well

known glass fibers, such as quartz fiber, borosilicate fiber or Pyrex fiber, as optimization of a result effective variable and to gain the above advantages.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cook et al. teach in column 7 line 50 that Pyrex filters are well known in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lyle A Alexander  
Primary Examiner  
Art Unit 1743